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HB 1171

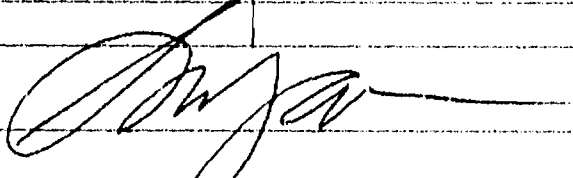
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1171

House Natural Resources Committee

Conference Committee

Hearing Date January 12, 2001

Tape Number	Side A	Side B	Meter #
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Committee Clerk Signature 			

Minutes: Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will open the hearing on HB 1171. Is there anyone here to testify for this bill?

Dale Frink - Asst. State Engineer for the State Water Commission: I am here today in support of HB 1171. (See attached testimony.)

Chairman Rennerfeldt: Thank you, Dale. Is there any cap on the amount of money spent for FTE's or drawn from this fund?

Frink: I am not sure if there is a cap. The Water Coalition and the Water Commission agreed that \$150,000 is the amount we would allocate to the eastern water users. We certainly do not intend during the next biennium to hire more than one FTE. We may fund some additional money out of our contract fund which is part of our water appropriation bill. That would be for more

professional services, or a cost share with the Bureau of Reclamation. But certainly this biennium we are looking at one FTE, max. Probably not starting until July 1st.

Chairman Rennerfeldt: Rep. Keiser.

Rep. Keiser: If you are so certain of one FTE, why doesn't it specify one FTE instead of leaving it to your discretion to hire whomever and as many as you like?

Erink: This bill is similar to what we had in the SW pipeline and an oil project and both of those started as studies. Long term it is possible we would hire more than one FTE, certainly not this biennium. Eastern ND is a little different than the SW pipeline because the Garrison Diversion Conservancy district will be more involved. The staffing on this one is somewhat greater, but right now we are looking at one person.

Chairman Rennerfeldt: Rep. Hanson.

Rep. Hanson: If we pass this bill, will it pass in appropriations.

Chairman Rennerfeldt: I would think so.

Rep. Hanson: It says it is already in the budget.

Chairman Rennerfeldt: It is, \$150,000 is part of HB1023. Rep. Winrich.

Rep. Winrich: It seems that whenever we put anything in the Red River Valley a whole bunch of agencies get involved. One of the agencies that seems to be after this is the International Joint Commission. Is someone in this group charged with working on the international issues that always come up when dealing with water in the Red River Valley.

Frink: The Bureau of Reclamation is involved in the study and environmental impact statement, and we will be involving a lot of people. The IJC would be an indirectly involved. The Water Commission and the State of ND have representatives on a couple of IJC boards. This study will involve people from ND, MN and Manitoba. Canada's main interest in this would be if it

involved the Missouri River as a source of water. The Dakota Water Resources Act requires that we go back to Congress if the Missouri River is involved. It is a transfer of water from the Missouri River as we are taking a long time to implement it.

Chairman Rennerfeldt: Rep. Keiser.

Rep. Keiser: If this is already in 1023, what makes this bill important that it be passed? If the FTEs and additional staff and research are already covered, what other additional elements are covered that require this to be passed?

Frink: If this bill was defeated, certainly we would continue to work with the Bureau of Reclamation on this study. The decision was made that we want to fight the nemeses on this project, it is a very important project to the State of ND. That is why we specifically tagged into a separate bill.

Rep. Keiser: I do not disagree with your statement, but I don't think it answers the question. If appropriations approves this, the project goes ahead, if we approve this bill and appropriations didn't, the project doesn't go ahead. Again, what is it about this bill that makes it important for us to approve it, given to the appropriations reviewing list the budgetary issues, and the approval for the project and the FTE's.

Frink: Our appropriations bill does not include language for FTE's, if it was strictly an appropriations bill we would have to do it with our current staff. The key on this particular bill is to allow us to hire staff.

Chairman Rennerfeldt: Any more questions from the committee?

Rep. Keiser: On your \$150,000 fiscal note, it is coming from other funds, can you detail what other funds, and are there any general fund implications, benefits, or others for these positions.

Erink: The Water Bill and Trust Fund. I also indicated that similar to SW Pipeline and NAWs, neither one of those projects have been funded out of the general fund. Those are strictly funded by the resources of other funds, not general funds.

Chairman Rennerfeldt: Thank you Dale. Anyone else here to testify in favor?

Mike Dwyer - ND Water Coalition: I am representing about 30 state wide organizations that have a stake in water. The Water Coalition was created to try to complete ND's water infrastructure for economic growth and quality of life. In 1979 the Legislature said it is our intent to build the SW Pipeline Project, they didn't authorize it at that time, but it was their intent to provide water to SW ND. This was similar legislation to the one before you for Eastern ND. Four years later the legislature authorized a specific project. In 1995 the legislature enacted a similar piece of legislation for the NW part of ND to focus energy towards providing a water supply to northwest ND. You created a NAWs advisory committee, which is held up at the moment with negotiations with Canada. What we have before you now is intent to focus upon eastern ND, because we have had these other projects and have accomplished a number of rural water systems, 31 rural water systems in our state as part of the Garrison Diversion reformation act of 1986. Water in Eastern ND has been connected to Garrison because of the McClusky and New Rockford canals and so it is connected to this project. We have been working on the ND Water Resource act for a number of years. Congress did pass it, so we are asking here for special emphasis and say it is our intent to put extra attention to provided long term water supply to eastern ND. It is part of the ND Water Resource Act, it is involved in the study that the Bureau of Reclamation is doing to find the best alternative for a water supply for eastern ND, there are negotiations with Canada, a vote will take place between our State Department and Canada. We are trying to be careful with the agreement we will reach on NAWs, because that might have an

Impact on the kind of agreement we reach with Canada on the Red River and moving the water from the Missouri River to Eastern ND. We feel this bill is an expression of legislative intent to move this forward. As far as the money, the appropriations committee will be addressing that issue. So really this goes hand in hand with intent and funds. We really support this, we are in a good position to water infrastructure completed in some other portions of our state, we are working on irrigation and a number of other things. This getting water to eastern ND is a critical and high priority. We think this would be a good step for the legislature to express this intent.

Chairman Rennerfeldt: Rep. Nelson

Vice Chair Nelson: In the negotiations with Canada and the NAWs project, you anticipate the same types of objections or issues with this project because it ultimately is an issue of Missouri water going into that country? Or are there different issues with the eastern water projects?

Dwyer: I would expect they would be pretty much the same. With Missouri river water there would be a connection between McClusky and New Rockford Canal and so if the same kind of treatment is necessary, there would be the same type of discussion. The NAWs discussion is very important to the Red River Valley discussion we face down the road. If we get that agreement with NAWs the precedent has been set for constructive negotiations for the Red River Valley project. We think it will have a precedent setting impact.

Vice Chair Nelson: Where is the negotiation with Canada today on the NAWs project?

Dwyer: There is an effort to try and get this deal done with this administration. Included in the discussion is UV treatment which some believe has no scientific basis. I would speculate that with only eight days there has been a conference call between EPA, The Dept. Of the Interior, the Bureau of Reclamation and the state of ND every day for a week, and we would not get this done on this watch. We will need to start over.

Chairman Rennerfeldt: Thank you, Rep. Nottestad.

Rep. Nottestad: If we have to start over again, could the discussion on NAWs and the eastern part of the state be done at the same time?

Dwyer: Probably not. With NAWs everything is ready to go, the money and the design, except for the agreement with Canada. In the case of the Red River Valley we have to go through the studies with the Bureau of Reclamation on the right alternative. Those of us in the water business feel that the Missouri River is the only long term alternative that will meet our needs. Once an alternative is selected then we would get to that point.

Chairman Rennerfeldt: Rep. Porter.

Rep. Porter: In the testimony it says that the study and draft on environmental impact are expected to be completed in three years and cost 3 million dollars, with appropriations for 150 thousand where is the rest of the money coming from?

Dwyer: The Dakota Water Resource Act which just passed authorizes 200 million dollars for MR and I, 200 million dollars for statewide MR and I, and 200 million dollars for Red River Valley water use. That is federal money. It would come out of the federal funding by the Bureau of Reclamation.

Chairman Rennerfeldt: Any further questions of the committee? Thanks Mike.

Pat Zavoral - City Administrator of the City of Fargo and Chair of Eastern Dakota Water Users

Group: I am here today to speak in support of HB 1171. Since I have gotten involved in the water business in eastern ND, it has been dryer longer than it has been wet. We think it is critical to move forward on this bill. This bill is as much a commitment of the State of ND to bring water to the eastern part of the state as it is whether or not there is an FTE involved. We have studied this for the last three years and have gotten to the point where we can justify the Federal

allocation of 200 million for the fund, the next step is to study the most feasible way of running that water from the Missouri to the eastern part of the state. Our completed study shows if we have the conditions of the thirty's and our population growth with value added agriculture, we would truly have a water shortage. We would have to import water from some place else. 96% of all surface water in this state is in the Missouri River. Hopefully we can resolve the issue with Canada and the environmental concerns, and truly bring better water to the valley.

Chairman Rennerfeldt: Pat, will there be additional industrial growth with the additional water shipped down there?

Zavoral: Whether it comes to Fargo or the Valley, it doesn't matter to us as long as we see that there are opportunities of additional irrigation in the Valley which would lead to different types of crops, which would lead to different processing industries. We anticipate seeing 3 or more corn milling plants, but they take a lot of water and you can't have that without the raw products - the farm product and water.

Chairman Rennerfeldt: Rep. Nelson.

Vice Chair Nelson: In your opinion would there be less resistance to using Devils Lake water to supply water to eastern ND or more resistance, as using Devils Lake water as a means implementing a source of water sooner. I realize the long term effect and stability of using Missouri River Water, how does the proposed Devils Lake Outlet fit into your scheme?

Zavoral: Let me give you a couple of examples. The cost of treating water from the Red River and Sheyenne is 20 cents per gallon as opposed to the Missouri River which is 9 cents a gallon. It is a water quality issue. The Safe Water Drinking Act which is what drives us in terms of how we treat water is primarily focused on surface water. 10 years ago we had 17 characteristics we had to identify, today it is 70. The Feds are pushing that characteristic identification into the ground

water and wells will have to have the same treatment level as surface water. Unfortunately the Devils Lake water is more difficult to treat, if we had over fifty percent of the water coming out of Devils Lake it would cost us an additional 15-25 million dollars in our treatment plant. Devils Lake can be a solution if we can meld it with some of the other water we get, but it cannot be our only solution.

Chairman Rennerfeldt: Rep. Droydal.

Rep. Droydal: Pat, when Garrison Diversion was established, water for the eastern part of the state was one of the issues. That was fifty years ago or better. I have only been here 10 years or five sessions. You mentioned that three sessions ago you started working this issue. It seems we have always been working on issues supporting getting water to eastern North Dakota. Here we are in 2001 looking at another environmental impact study and you are talking about another study down the road. When are we going to finally get to a point where we get that water out there?

Zavoral: In 1986 the Garrison Diversion Bill was re-authorized to admit 100 cubic feet of water per second to the eastern part of ND. They didn't give any other declaration as to how that would happen. The last re-authorization of Garrison would change the name to the Dakota Water Resource Act and they identified money for the act, so I think we are making steps. We may be talking soon about more positive things, like how are we going to deliver that water, and what sort of economic activity it could generate. I am optimistic we are going to see something soon. The studies are necessary because the State of Missouri say we have to prove there is a need for the water to be drawn out of the Missouri River. Our studies show there is a need if we have drought conditions again. Are we going to declare an emergency to get the water there or are we

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going to be diligent in our studies to get the water there? I can't answer you directly, but you understand.

Chairman Rennerfeldt: Any other questions of the committee? Anyone else care to testify in favor of this bill? Any opposition to this bill? I will close the hearing on HB 1171.

